

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1467 of 2018**

- The State of Chhattisgarh, Through - Police Station Thankhamhariya, District Bemetara (C.G.)

---- Appellant**Versus**

1. Hulas Sahu, S/o Feru Sahu, aged about 30 years.
2. Taran Bai, W/o Hulas Sahu, aged about 28 years.

Both are residents of village Nawagaonkala, Police Station Thankhamhariya, District Bemetara (C.G.)

---- Respondents

For Appellant/State : Shri Anand Verma, Dy. G.A.
For Respondents : None

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt Justice Rajani Dubey

Order on Board by Manindra Mohan Shrivastava, J

11/01/2019

1. Heard on prayer for grant of leave to appeal.
2. Application for grant of leave to appeal has been filed by the State in the matter of acquittal of respondents vide judgment dated 17.04.2018 passed in Sessions Trial No.04/2016 by Additional Session Judge, Bemetara, District Bemetara (C.G.).
3. Learned counsel for the State would submit that the learned trial Court has committed patent illegality and perversity in acquitting accused/respondents Hulas Sahu (R-1) and Taran Bai (R-2) though Dhani Ram (PW/1), Smt. Bhukhin Bai (PW/2) and Krishna Sahu (PW/3) all have

clearly stated in their evidence that after initial round of quarrel between deceased Bhuwan Sahu and accused Hulas Sahu, a second round of fight took place in which accused/respondents Hulas and Taran Bai came, caught hold of Bhuwan and then assault was given on Bhuwan by accused/respondent No.1 Hulas with the help of a wooden plank. He would submit that the learned trial Court has granted these two accused persons benefit of doubt only on the ground that in the diary statements of PW/1, PW/2 and PW/3, there is an omission with regard to role played by accused/respondents Hulas and Taran Bai in so far as catching hold of deceased Bhuwan Sahu is concerned, which, it is, argued, is minor omission.

4. We have gone through the impugned judgment and the evidence of Dani Sahu (PW/1), Smt. Bhukhin Bai (PW/2) and Krishna Sahu (PW/3) and find that the role alleged to be played by accused/respondents Hulas Sahu and Taran Bai is an improvement upon the case diary statements of the respective witnesses which has been clearly elicited in cross-examination of PW/1, PW/2 and PW/3. The learned trial Court has noticed this aspect and has, therefore, disbelieved the prosecution story in the evidence of eye-witnesses in so far as alleged criminal overt act on the part of the accused/respondents Hulas Sahu and Taran Bai is concerned. Accordingly, accused/respondents Hulas Sahu and Taran Bai have been acquitted by giving benefit of doubt.
5. The approach of the learned trial Court cannot be said to be suffering from any patent illegality. It cannot be said that the learned trial Court has omitted to consider any clinching evidence on record, involving these two accused persons in alleged commission of offence. The view which has been taken by the learned trial Court is possible one. Where the role alleged to be played by accused/respondents Hulas Sahu and Taran Bai is an

improvement upon diary statements of the so-called eye-witnesses PW/1, PW/2 and PW/3, acquittal of these two persons by giving them benefit of doubt, to our mind, does not appear to be perverse or suffering with any patent illegality so as to warrant interference by this Court, keeping in view the limited scope of interference against the judgment of acquittal. We, accordingly, do not consider present to be a fit case to grant leave to appeal.

6. Accordingly, CRMP is dismissed at the admission stage itself.

Sd/-

(Manindra Mohan Shrivastava)

Judge

Sd/-

(Rajani Dubey)

Judge